



NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8907; NRC-2019-0026]

United Nuclear Corporation; Church Rock Uranium Mill Site

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental impact statement and programmatic agreement; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final Environmental Impact Statement (EIS), NUREG-2243, "Environmental Impact Statement for the Disposal of Mine Waste at the United Nuclear Corporation Mill Site in McKinley County, New Mexico," for United Nuclear Corporation's (UNC) request for a license amendment to allow the disposition of about 1 million cubic yards of mine waste from the Northeast Church Rock (NECR) Mine Site at UNC's uranium mill site in McKinley County, New Mexico. The NRC is also issuing a final Programmatic Agreement (PA) under section 106 of the National Historic Preservation Act (NHPA) that provides requirements for the NRC, U.S. Environmental Protection Agency (EPA), and UNC to follow to ensure that cultural resources are protected during project activities.

DATES: The EIS and PA referenced in this document are available on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2019-0026** when contacting the NRC about the availability of information regarding these documents. You may obtain publicly available information related to these documents using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2019-0026**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the "For Further Information Contact" section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public

Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC’s PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

- **Project Website:** Information related to the Church Rock project can be accessed on the NRC’s public website at <https://www.nrc.gov/info-finder/decommissioning/uranium/united-nuclear-corporation.html>.

- **Public Libraries:** A copy of the final EIS will be made available at each of the following public libraries:

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| Octavia Fellin Public Library 115 W. Hill Ave. Gallup, NM 87301 | Gallup Zollinger Library at the University of New Mexico 705 Gurley Avenue Gallup, NM 87301 |
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FOR FURTHER INFORMATION CONTACT: Christine Pineda, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6789, email: Christine.Pineda@nrc.gov.

SUPPLEMENTARY INFORMATION:

The NRC is issuing two documents, a final EIS and a final PA. These documents are described in the following subsections.

I. Environmental Impact Statement

Background

In accordance with section 51.118 of title 10 of the *Code of Federal Regulations* (10 CFR), “Final environmental impact statement - notice of availability,” the NRC is making available NUREG-2243, the NRC’s final EIS for a proposed license amendment that would allow UNC to place uranium mine waste into a repository at UNC’s NRC-licensed uranium mill site and to make certain improvements at the site. Notices of availability of the draft EIS were published in the *Federal Register* (FR) on November 13, 2020, by the NRC (85 FR 72706) and the U.S. Environmental Protection Agency (85 FR 72649). After granting two extensions, the NRC closed the public comment period for the draft EIS on May 27, 2021. On June 17, 2021, in response to a request from the President of the Navajo Nation, the NRC re-opened the public comment period until November 1, 2021 (86 FR 32285). Appendix B of the final EIS contains summaries of and responses to the comments received. A separate report containing the as-received comments is available in the “Availability of Documents” section. This report follows the organization of EIS Appendix B.

Discussion

The NRC is issuing the final EIS for an application from UNC requesting an amendment to license SUA-1475 for the UNC mill tailings disposal site in McKinley County, New Mexico. The proposed license amendment would allow UNC to transfer and dispose of uranium mine waste from the nearby NECR Mine Site, located across New Mexico Highway 566 from the UNC Mill Site. Approximately 1 million cubic yards of mine-impacted soil and debris present at the NECR Mine Site (on primarily tribal trust lands) would be removed and placed in a repository to be constructed at the UNC Mill Site. The proposed license amendment would also authorize certain improvements to the existing tailings impoundment. The proposed NRC action would facilitate an action by the EPA under the Comprehensive Environmental Response, Compensation, and Liability Act to remove the mine waste from the Northeast Church Rock Mine Site, as documented in a 2013 EPA Record of Decision (EPA 2013).

The final EIS is being issued as part of the NRC’s process to decide whether to

approve the requested license amendment. In this final EIS, the NRC staff has assessed the potential environmental impacts of the proposed action, two secondary alternatives (options for implementing certain aspects of the proposed action), and the no action alternative on land use, transportation, geology and soils, water resources, ecological resources, air quality, noise, historic and cultural resources, visual and scenic resources, socioeconomics, environmental justice, public and occupational health, and waste management. The NRC staff determined that the potential impacts from the proposed action and two secondary alternatives would range from “small” to “small to moderate” for the analyzed environmental resource areas. The NRC staff also concludes that local Navajo Nation communities, namely the Red Water Pond Road, Pipeline Road, and Pinedale communities, are closer than any other community to the proposed project area, and these communities have experienced a range of significant impacts because of historical uranium mining and milling activities over many decades. The staff concludes that the activities of the proposed action, which would occur primarily within a three to four year period, would likewise affect these communities disproportionately with regard to traffic and transportation, air quality, noise levels, and visual disturbances.

The NRC staff also considered the no-action alternative, under which the NRC would not approve UNC’s license amendment request. A key distinction between the proposed action (including secondary alternatives) and the no-action alternative is the timing of impacts associated with the cleanup of the Northeast Church Rock Mine Site. If the NRC does not approve the license amendment request, the mine waste would not be transferred to the UNC mill site and the EPA would need to evaluate or reevaluate other options for disposing of the mine waste.

During the comment period on the draft EIS, the NRC received 100 comment submittals resulting in 1,300 unique comments. Comments were submitted by individuals, organizations, and government agencies, including Navajo Nation government agencies. Because the proposed project would be conducted on and near

Navajo Nation land and communities, Sections 1.4.2 and B.2.1.1 of the EIS provide descriptions of the topics and concerns raised by Navajo individuals and the Navajo government about the proposal and past uranium mining and milling activities.

After evaluating the impacts of the proposed action and two secondary alternatives, and comparing them to the no-action alternative, the NRC staff, in accordance with 10 CFR part 51, sets forth its National Environmental Policy Act recommendation. The potential adverse environmental impacts of the proposed action and the two secondary alternatives do not preclude issuing a license amendment. This recommendation is based on (i) the license application, which includes the environmental report and supplemental documents and the licensee's responses to the NRC staff's requests for additional information; (ii) consultation with Federal, State, Tribal, and local agencies and input from other stakeholders, including all comments received on the draft EIS; and (iii) independent NRC staff review as set forth in this EIS. The NRC staff concludes that removal of mine wastes from the former Northeast Church Rock Mine Site and consolidation of the mine materials over existing mill tailings on private property would minimize the footprint of waste disposal facilities and make the land available again for unrestricted use by the Navajo Nation.

II. NHPA Section 106 Programmatic Agreement

Background

The NRC is issuing a final PA to ensure compliance with Section 106 of the NHPA (54 U.S.C. 306108) and its implementing regulations (36 CFR 800). The NRC published a notice of availability of the draft PA on December 6, 2021 (86 FR 69103) and closed the comment period on January 20, 2022. The NRC staff received and addressed two substantive comments on the draft PA.

Discussion

The PA describes the measures that UNC would follow to mitigate or eliminate the potential for adverse impacts to cultural resources during the implementation of the proposed action, if approved. The NRC, EPA, the Department of the Interior's Bureau of

Indian Affairs, the New Mexico State Historic Preservation Officer, the Navajo Nation President, Navajo Nation Tribal Historic Preservation Officer, and UNC are signatories to the PA. The EPA is the lead agency for implementing the PA, which was executed on the date of the last signature, June 13, 2022. Sections 3.9 and 4.9 of the EIS contain information about the PA and cultural resources in the project area.

III. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

| DOCUMENT | ADAMS ACCESSION NO. / WEB LINK |
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| Final EIS: "NUREG-2243, Environmental Impact Statement for the Disposal of Mine Waste at the United Nuclear Corporation Mill Site in McKinley County, New Mexico" | ML22356A145 https://www.nrc.gov/docs/ML2235/ML22356A145.pdf |
| Report of Comments on the Draft EIS: "Public Comments on the Draft Environmental Impact Statement for the Disposal of Mine Waste at the United Nuclear Corporation Mill Site in McKinley County, New Mexico" | ML22110A106 https://www.nrc.gov/docs/ML2211/ML22110A106.pdf |
| Draft EIS: "NUREG-2243, Environmental Impact Statement for the Disposal of Mine Waste at the United Nuclear Corporation Mill Site in McKinley County, New Mexico" | ML20289A621 https://www.nrc.gov/docs/ML2028/ML20289A621.pdf |
| Programmatic Agreement for UNC Church Rock Mill Site License Amendment and Northeast Church Rock Mine Site Cleanup | ML22074A047 https://www.nrc.gov/docs/ML2207/ML22074A047.pdf |
| EPA Record of Decision: "United Nuclear Corporation Site, McKinley County, New Mexico. USEPA ID NMD030443303; Operable Unit: OU 02, Surface Soil Operable Unit," dated March 2013 | ML13095A352 https://www.nrc.gov/docs/ML1309/ML13095A352.pdf |

Dated: January 5, 2022.

For the Nuclear Regulatory Commission.

Christopher M. Regan,
Director,
Division of Rulemaking, Environmental,
and Financial Support,
Office of Nuclear Material Safety
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